

United States District Court

WESTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA

v.

MICHAEL WILLINGHAM

ORDER OF DETENTION PENDING TRIAL

Case Number: 1:05-CR-199

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I - Findings of Fact

(1) The defendant is charged with an offense described in 18 U.S.C. §3142(f)(1) and has been convicted of a (federal offense) (state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed) that is

- a crime of violence as defined in 18 U.S.C. §3156(a)(4).
- an offense for which the maximum sentence is life imprisonment or death.
- an offense for which the maximum term of imprisonment of ten years or more is prescribed in _____
- a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. §3142(f)(1)(A)-(C), or comparable state or local offenses.

(2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.

(3) A period of not more than five years has elapsed since the (date of conviction) (release of the defendant from imprisonment) for the offense described in finding (1).

(4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an)other person(s) and the community. I further find that the defendant has not rebutted this presumption.

Alternate Findings (A)

(1) There is probable cause to believe that the defendant has committed an offense

- for which a maximum term of imprisonment of ten years or more is prescribed in _____
- under 18 U.S.C. §924(c).

(2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternate Findings (B)

(1) There is a serious risk that the defendant will not appear.

(2) There is a serious risk that the defendant will endanger the safety of another person or the community.

Defendant is charged with armed bank robbery in which the defendant allegedly threatened to shoot the branch manager of the bank, then fled in a sports utility vehicle that led the police on a chase before crashing into a fence. Defendant then attempted to escape on foot and was found hiding in some bushes. Defendant has served several prison terms for possession of cocaine, breaking and entering with intent, and attempted felony seduction. Defendant committed four criminal offenses (at least three of which were felonies) while he was already serving a term of parole or probation. Over the years, defendant has also exhibited a history of drug and alcohol abuse.

Part II - Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by a preponderance of the evidence that no condition or combination of conditions will assure the presence of the defendant in court due to his attempt to flee the police both in a vehicle chase and on foot following the robbery. Defendant has also displayed an inability to abide by any trust placed in him by courts in the past, which would be a necessary ingredient to releasing him on bond. Specifically, the court has in mind the four criminal violations defendant committed while on parole or probation. (Continued on attachment)

Part III - Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

Dated: September 12, 2005

/s/ Hugh W. Brenneman, Jr.

Signature of Judicial Officer

Hugh W. Brenneman, United States Magistrate Judge

Name and Title of Judicial Officer

United States v. Michael Willingham

1:05-CR-199

ORDER OF DETENTION PENDING TRIAL

Page 2.

Part II - Written Statement of Reasons for Detention - (continued)

For these latter reasons, the court also finds by clear and convincing evidence that no condition or combination of conditions will assure the safety of the community if the defendant should be placed back out on the street, even with supervision.